

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 12 MAR 2004

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Applicant's or agent's file reference PPD 50701WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IB 03/00687	International filing date (day/month/year) 21.02.2003	Priority date (day/month/year) 05.03.2002
International Patent Classification (IPC) or both national classification and IPC C07D231/14		
Applicant SYNGENTA PARICIPATIONS AG		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.
  - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of    sheets.

- This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  16.09.2003	Date of completion of this report  12.03.2004
Name and mailing address of the International preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Allard, M  Telephone No. +31 70 340-2002  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/IB 03/00687

**1. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

**Description, Pages**

1-33 as originally filed

**Claims, Numbers**

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-10
	No: Claims	-
Inventive step (IS)	Yes: Claims	-
	No: Claims	1-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	-

**2. Citations and explanations**

**see separate sheet**

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**Reference is made to the following documents:**

- D1: EP-A-0 545 099 (BASF AKTIENGESELLSCHAFT) 9 June 1993 (1993-06-09)  
cited in the application
- D2: WO 01 53259 A (SYNGENTA PARTICIPATIONS AG) 26 July 2001 (2001-07-26)
- D3: DATABASE WPI Section Ch, Week 199026 Derwent Publications Ltd., London,  
GB; Class C02, AN 1990-196872 XP002241837 -& JP 02 129171 A (NISSAN  
CHEM IND LTD), 17 May 1990 (1990-05-17) cited in the application

**Re Item V**

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step  
or industrial applicability; citations and explanations supporting such statement**

**Novelty (Article 33(2) PCT)**

The available prior art does neither disclose N-(cyclopropylphenyl)-carboxamides according to formula (I) nor (cyclopropylphenyl)-amines according to formula (II): the subject-matter of claims 1-10 is therefore novel.

**Inventive step (Article 33(3) PCT)**

D1, which is considered to represent the closest prior art, describes 2-substituted N-(ortho-substituted-phenyl) nicotinamides wherein the ortho substituent can be a cyclopropyl or alkyl-cyclopropyl group, see claim 2 and page 6, compound 1.59. These compounds are useful as anti-botrytis fungicides. Moreover, D1 discloses the anti-botrytis use of further N-(ortho-substituted-phenyl) carboxamides wherein the ortho substituent can be an cyclopropyl or alkyl-cyclopropyl group, see claim 1.

In the light of the teachings of D1, the problem underlying and solved by the present application can be seen in the provision of further fungicidal N-(ortho-substituted-phenyl) heterocyclyl-carboxamides.

To solve this problem, the present application proposes compounds which are merely a selection amongst the compounds already disclosed in D1, or which, in the light of the teachings of D2 and D3, are obvious alternatives to said compounds. In the absence of

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substantiated surprising effects, such selection, or such provision of obvious alternatives, does not involve an inventive step.

The intermediates of claim 7 are imposed by the structure of the aimed end-products and are not considered to imply an inventive step in the absence of such inventive step for the end-products.

The subject-matter of claims 1-10 lacks therefore an inventive step.

Industrial applicability (Article 33(4) PCT)

The compounds, compositions and processes of claims 1-10 can be applied in the agrochemical industry.